

No. 9/8/86-6Lab/6954.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Super Steel, Plot No. 34, Sector 6, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Ref. No. 14 of 1986

between

SHRI RAM SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S
SUPER STEEL, PLOT NO. 34, SECTOR 6, FARIDABAD

Present:—

None for the workman.

Shri R. C. Sharma for the respondent-management

AWARD

This reference under section 10 (i) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No ID/FD/50951—55, dated 18th December, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Ram Singh, workman and the respondent-management of M/s Super Steel, Plot No. 34, Sector 6, Faridabad. Accordingly it has been registered as reference No. 14 of 1986. The reference has been received with the following issue :—

“Whether the termination of services of Shri Ram Singh, was justified and in order? If not, to what relief is he entitled?”

2. The parties have settled the dispute at their own level. To that effect I have recorded the statement of Shri R. C. Sharma, representative of management. It has been stated by Shri R. C. Sharma that this workman has since received the amount of Rs. 6072.39 towards full and final settlement of his claim. He is not entitled to be reinstated/ re-employed with the respondent. The reference received is hereby answered to the effect that the matter in dispute has been settled by the parties and no further action in the matter is needed. The reference is accordingly answered.

Dated, the 3rd July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1794, dated 30th July, 1986.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6 Lab./6955.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Auto Glide Pvt. Ltd., Plot No. 64, Sector 6, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR
COURT, FARIDABAD

Reference No. 131 of 1986

between

SHRI TAPYA NAND, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S AUTO GLIDE PVT. LTD., PLOT NO. 64, SECTOR 6, FARIDABAD

Present:—

None for the workman.

Shri R. C. Sharma for the respondent-management.

AWARD

This reference under section 10 (i)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act), was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. ID/FD/139-85/15260-64, dated 5th May, 1986 to adjudicate upon the dispute of service matter covered by second schedule under section 7 of the said Act, arisen between Shri Tapyia Nand, workman and the respondent-management of M/s. Auto Glide Pvt. Ltd., Plot No. 64, Sector 6, Faridabad. Accordingly, it has been registered as reference No. 131 of 1986. The reference has been received with the following issue :—

Whether the services of Shri Tapyia Nand, were terminated or he had abandoned his job by way of absenting himself? If so what type of relief he is entitled for?

No body has appeared on behalf of the workman despite of service through UPC. The case was called several times. It is 9.40 A. M. It means that the workman is not interested to persue the reference. Hence the award is given that there is no dispute between the parties.

Dated, the 29th July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1777, dated 30th July, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6Lab./6958.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Haryana Foundary Works, 11/6, Mathura Road, Amar Nagar, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 146 of 1986

between

SHRI MUNNI LAL, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S HARYANA
FOUNDRY WORKS, 11/6, MATHURA ROAD, AMAR NAGAR, FARIDABAD

Present :

None for the workman.

Shri R. C. Sharma for the respondent mgt.

AWARD

This reference under section 10 (i) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. ID/FD/33-85/1/473-77, dated 21st May, 1986 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Munni Lal, workman and the respondent-management of M/s. Haryana Foundary Works, 11/6, Amar Nagar, Faridabad. Accordingly, it has been registered as reference No. 146 of 1986.

No body is present on behalf of the workman despite of personal service. The case was called several times. It is 9.30 a.m. It shows that the workman is not interested to persue the reference. Hence, the award is given that there is no dispute between the parties.

Dated, the 24th July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1785, dated the 30th July, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

The 23rd September, 1986

No. 9/8/86-6 Lab./7235.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Eicher Goodearth Ltd., Plot No. 57, N.I.T., Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 422 of 1985

between

SHRI SURESH SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S
EICHER GOODEARTH LTD., PLOT NO. 57, N.I.T., FARIDABAD.

Present :—

Shri B. M. Gupta for the workman.

Shri R. N. Rai for the respondent-management.

AWARD

This reference under section 10(i)(c) of Industrial Dispute Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its Endorsement No. ID/FD/45-85/30833—38, dated 23rd July, 1985, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Suresh Singh, workman and the respondent-management of M/s Eicher Goodearth Ltd., N.I.T., Faridabad. Accordingly, it has been registered as reference No. 422 of 1985.

2. The facts of the case are that petitioner Shri Suresh Singh had been working since 7th December, 1983 in the respondent factory as a helper at monthly pay of Rs 390 and his services were terminated on 30th April, 1984. It has been pointed out that he was involved in an accident on 26th December, 1983 while doing his duty in the factory itself and he was declared fit on 15th March, 1984 but at that time respondent had refused to take him back. He was allowed to resume the duty on 11th April, 1984 and he was turned out of his job on 30th April, 1984. He had served a demand notice on the respondent who had agreed on 11th December, 1984 to take him back on his job but he was not allowed to resume the duty. The claim further made is that he had gone at the main gate of the factory along with Shri B. M. Gupta but without any success. It is being alleged that his services have been terminated in an illegal manner and against the principles of natural justice. Accordingly request was made that he be reinstated with full back wages and continuity of service.

3. On notice, respondent has filed reply and contested the claim. Preliminary objection has been raised to the effect that Deputy Secretary Labour Department is not competent to sign the reference and as such the same is bad. Further it has been pointed out that Haryana Government had earlier rejected his matter and refused to make the reference to the Labour Court and now it has been reopened and reference has been made against the rule of *Audialteram partem* as no opportunity was afforded to explain its position, and on this point the reference is bad in law. So far as merits are concerned, it has been pointed out that the petitioner was appointed on 6th December 1983 as a helper on daily wages as a casual labour. It has further been admitted that this petitioner was involved in an accident and on 11th April, 1984 he had requested to be re-employed and he was employed for 17 days only and in this manner he worked upto 30th April 1984 and there after his services were dispensed with since no longer required. It has also not been disputed that on 26th November, 1984 it was agreed upon to re-employ him as a casual worker but thereafter he never reported on duty and Shri B. M. Gupta never accompanied him as claimed by him. It has been contended that he had worked for 32½ days only and on the face of it he is not entitled for the benefits requested for.

4. On the pleadings of the parties, my learned predecessor had framed the following issues,—*vide* his order dated 11th December, 1985 :—

- (i) Whether the reference is bad as alleged ?
- (ii) Whether the reference is incompetent as alleged in para No. 2 of the preliminary objections ?
- (iii) As per reference ?

In support of the claim Shri Suresh Kumar has appeared as a witness and deposed on oath. Shri Ranbir Singh has also been examined by him. On the other hand Junior Personnel Officer of the respondent also appeared. I have heard both the parties as represented above and further have gone through the case file. The findings issue-wise are as below :—

Issue No. 1 & 2 :—

4. Both these issues are to be disposed of together since the same are arising out of written statement filed by the respondent. The first preliminary objection of the respondent is that this reference bears signatures of some one on behalf of the Deputy Secretary, Haryana Government Labour Department and in this manner neither the said officer nor Deputy Secretary are competent to make a reference. His contention is that it is the Governor who is competent to sign the reference and nobody else on his behalf and as such the reference is liable to be rejected simply on this ground. On behalf of the petitioner it has been replied that every act of the State Government is carried by the Executive on behalf of the Governor and reference on the face of it is a valid one. In support of this contention reference is made to C.W.P. 207/72 decided on 20th March, 1985 by the Hon'ble High Court of Delhi in Krishna Bus Service case. Reference in that case was signed by an Under Secretary on behalf of the Governor and it was decided that the same was validly made. There is no reason to reject the reference on the ground that it has been signed by an officer of behalf of the Deputy Secretary for the Governor. The first objection taken by the respondent is hereby repelled.

5. The next objection raised by the respondent is that about this very matter reference was refused by the Haryana Government,—*vide* its order No. 15481—84, dated 11th April, 1985 in response to demand notice dated 18th December, 1984 and again at its back second reference has been made which is not permissible. Junior Personnel Officer has proved on file demand notice Ex. M-2 and rejection of the same,—*vide* Ex. M-4. I have gone through the contentions thereof and find that the demand notice was rejected on the following grounds :—

“Your services were of four months only and of a casual workman and hence you are not entitled for reinstatement”.

If it is the situation then it is not clear as to how this reference has been made to the Labour Court. Nothing is on the file to show that the respondent was ever moved to oppose the said reference and its comments were ever called for. On behalf of the respondent reference has been made to 1962-(I)LLJ page 555, Panipat Woollen and General Mills vs. Industrial Tribunal, Punjab. It was held therein that if the Govt. has refused to refer the matter for adjudication then there is a bar to make a reference later on for adjudication. There are many other citations on the subject Controversy to it no decide case has been referred on behalf of the petitioner. As a result of this discussions I decide first objection against the respondent while second objection is answered in its favour.

Issue No. 3 :—

6. According to the petitioner he had joined services on 7th December, 1983 while according to the respondent, he has started working from 6th December, 1983 and in this manner there is hardly any dispute in between the parties. The petitioner has further pointed out that he was involved in an accident on 26th December, 1983 while on duty in the factory and that has not been disputed by the respondent in any manner. The worker as claimed that he was declared fit on 15th March, 1984 but he was allowed to resume his duty on 11th April, 1984 and was turned out from his job on 30th April, 1984. About it there is no dispute since it has been admitted by the respondent also that he had re-joined on 11th April, 1984 and had worked upto 30th April, 1984. In this manner according to the respondent the petitioner had worked for 32½ days only and even according to the petitioner that calculation appears to be correct. If the period of the absence due to accident from 27th December, 1983 to 10th April, 1984 is counted the total period of his service comes to 145 days only and the question arises whether such a workman is entitled for any protection or not. To find out the solution, I have gone through the relevant Sections and Rules framed of the said Act. We find the definition of the workman under section 2(s) of the said Act and conditions precedent to retrench a workman are mentioned in Section 25-F

of the said Act. According to the same, a workman having continuous service of one year cannot be retrenched except according to the procedure laid down under the above mentioned Section. Further continuous service has been defined,—vide Section 25-B and according to the same one must work for 240 days be recognised as a workman in continuous service of one year. This mandatory requirement has not been achieved by the petitioner in this case, and unfortunately such a workman is not protected under said Act. The serious reliance of Shri R. N. Rai on behalf of the respondent is on 1981-Lab. I. C. Page 719. Subhash Prohit vs. State of Rajasthan. In that case, petitioners had worked w.e.f. 26th February, 1979 to 9th November, 1979 and their services were terminated and that order was upheld since it was found that they had not continuous service of one year and benefit of Section 25-F could not be claimed by them. On the other hand reliance has been made on behalf of the petitioner on 1984-Lab. I. C. page 974 to the effect that management adopted unfair labour practice in terminating the services of workman and he is entitled for protection. In my opinion this ruling is not helpful for the interest of the petitioner since in that case it was held that the workman had actually worked for 230 days and by way of grace it can be counted towards 240 days, so as to entitle a workman to have a record of continuous service.

As a result of the above discussion, I have come to the conclusion that the petitioner is not entitled to be reinstated into his job since he has no record of continuous service of one year or more than that.

The reference is hereby answered against the petitioner.

Dated the 7th August, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 2083, dated the 26th August, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

The 22nd September, 1986

No. 9/8/86-6Lab./6956.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. G. S. Kochar and Company, Near Neelam Railway Crossing, Faridabad.

IN THE COURT OF SHRI A.S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 134 of 1986

between

SHRI RAVINDER PARTAP SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT
OF M/S. G. S. KOCHAR AND COMPANY, NEAR NEELAM RAILWAY CROSSING,
FARIDABAD

Present:—

None for the workman.

Shri R. C. Sharma for the respondent-management.

AWARD

This reference under section 10 (i) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (herein after referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No ID/FD/15278—83, dated 5th May, 1986 to adjudicate upon the dispute of service matter covered by second Schedule under section 7 of the said Act, arisen between Shri Ravinder Partap Singh, workman and the management of M/s G. S. Kochar and Company, near Neelam Railway Crossing, Faridabad. Accordingly, it has been registered as reference No. 134 of 1986. The reference has been received with the following issue:—

Whether services of Shri Ravinder Partap Singh were terminated or he abandoned his job by absenting himself? If so, to what type of relief he is entitled for?

Nobody has appeared on behalf of the workman, despite of personal service. The case was called several times. It is 9.35 a.m. It means that the workman is not interested to pursue the reference. Hence the award is given that there is no dispute between the parties.

Dated the 29th July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1776, dated the 30th July, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

No. 9/86-6 Lab./6957.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/S Mohan Partee Refrigeration and Engineering Works, 5 B-2 B. P., N. I. T., Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 142 of 1986

between

SHRISACHIDA NAND PARSHAD, C/O HIND MAZDOOR SABHA, 29 SAHID CHOWK,
FARIDABAD, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S MOHAN
PARTEE REFRIGERATION AND ENGINEERING WORKS, 5 B-2 B. P., NIT, FARIDABAD.

Present.—

None for the workman,

Shri S. B. Rana for the respondent-management.

AWARD

This reference under section 10(i)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. ID/FD/17497-501, dated the 21st May, 1986 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act arisen between Shri Sachida Nand, workman and the respondent-management of M/s. Mohan Partee Refrigeration and Engineering Works, 3 B-2B.P., NIT, Faridabad. Accordingly it has been registered as reference No. 142 of 1986. The reference has been received with the following issue:—

1. Whether the termination of services of Shri Sachide Nand Parshad was justified and in order? If not, to what relief is he entitled for?

Today the workman has not turned up. His case has been called for a number of time. It is 10.00 a.m. On behalf of the respondent Shri S.P. Rana has appeared. It seems that the workman is not interested to pursue his claim, petition and as such the same is hereby dismissed in default. The reference received is accordingly answered. No further action is needed.

Dated, the 23rd July, 1986.

A. S. CHAILA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1725, dated the 30th July, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHAILA,
Presiding Officer,
Labour Court, Faridabad.

KULWANT SINGH,

Secretary to Government, Haryana,
Labour and Employment Department.